REMARKS

I. Status of the Claims

Claims 1-7, 16, 17 and 23-35 have already been withdrawn, whereas claims 9 and 19-22 have already been cancelled without prejudice. Meanwhile, no claims have been amended at this time.

Accordingly, claims 8, 10-15, 18 and 36 are pending in the present application.

II. Claim Interpretation

On page 2 of the present office action, the Examiner writes, "A capital raiser is someone who is selling something which can include an obligation to pay money back in the future (a debt). A capital management order is an order to buy something which can include debt."

Nevertheless, it is earnestly submitted that a capital raiser is not necessarily someone who is selling something which can include an obligation to pay money back in the future (a debt), and that a capital management order is not necessarily an order to buy something which can include debt.

Seemingly, there has been slight miscommunication thus far between the Examiner and the Applicant, and hence the Applicant wishes to summarize herein, as usage examples, technical terms as utilized by a person skilled in the art.

In the following, a "capital raiser" corresponds to user U as recited in claim 8, whereas a "capital manager" corresponds to each of user V, user W, user X, user Y and user Z as recited in claim 8. Also, each of the following financial instruments, which corresponds to the financial instrument A as recited in claim 8, is disclosed in, for example, FIG. 1 of the present application.

1. In the case where the financial instrument A is a loan:

(1) Capital raising is "borrowing," whereas capital management is "lending."

(2) A capital raiser is a "borrower," whereas a capital manager is a "lender."

(3) The financial instrument A is a "borrowed liability" for the capital raiser, and is a "loan asset" for the capital manager.

(4) Accordingly, it is respectfully submitted that the capital raiser is not "someone who is selling something" expressed by the Examiner. It is also submitted that the capital management order is not "an order to buy something" expressed by the Examiner.

2. In the case where the financial instrument A is a bond:

(1) Capital raising is "issuance of the bond," whereas capital management is "buying of the bond."

(2) A capital raiser is an "issuer" or a "borrower," whereas a capital manager is a "buyer."

(3) The financial instrument A is a "bond" for the capital raiser, and is referred to also as an "obligation." The financial instrument A is a "bond" also for the capital manager.

(4) Accordingly, it is respectfully submitted that the capital raiser is an "issuer" or a "borrower" rather than "someone who is selling something" expressed by the Examiner. Nevertheless, it is earnestly submitted that the capital management order is indeed "an order to buy something" expressed by the Examiner.

3. In the case where the financial instrument A is an equity:

(1) Capital raising is "issuance of the equity," whereas capital management is "buying of the equity."

(2) A capital raiser is an "issuer," whereas a capital manager is a "buyer."

(3) The financial instrument A is an "equity" for the capital raiser, and is an "equity" also for the capital manager.

(4) Accordingly, it is respectfully submitted that the capital raiser is an "issuer" rather than "someone who is selling something" expressed by the Examiner. Nevertheless, it is earnestly submitted that the capital management order is indeed "an order to buy something" expressed by the Examiner.

4. In the case where the financial instrument A is a commercial paper:

(1) Capital raising is "issuance of the commercial paper," whereas capital management is "buying of the commercial paper."

(2) A capital raiser is an "issuer" or a "borrower," whereas a capital manager is a "buyer."

(3) The financial instrument A is a "commercial paper" for the capital raiser, and the "commercial paper" is equivalent to a type of "obligation." The financial instrument A is a "commercial paper" also for the capital manager.

(4) Accordingly, it is respectfully submitted that the capital raiser is an "issuer" or a "borrower" rather than "someone who is selling something" expressed by the Examiner. Nevertheless, it is earnestly submitted that the capital management order is indeed "an order to buy something" expressed by the Examiner.

III. Claim Rejections under 35 U.S.C. § 103

1. In the Amendment dated November 20, 2009 (hereinafter referred to as the "previous Amendment"), the Applicant respectfully explained technical features of the present invention, along with prominent advantageous technical effects produced by the present invention.

Nevertheless, it is regrettable that the technical features and the prominent advantageous technical effects are not yet fully apparent to the Examiner. Therefore, an alternative, more detailed explanation will be provided at this time.

2. Claim 8

(1) The technical feature of the server computer as defined in claim 8 lies in, in a financial instrument that can be unbundled into two constituents:

fixing, as the sole capital raising numerical value for one of the constituents, a desired capital management numerical value that is the most advantageous to the side that desires to execute capital management by means of the constituent; i.e., a desired capital management numerical value that is the most favorable to a prospective capital manager;

fixing, as a capital raising numerical value for the other constituent, a desired capital management numerical value that is more favorable to the prospective capital raiser; and

thereby executing the capital raising and capital management, separately by the constituent and by the other constituent, between the client terminal of the prospective capital raiser and the client terminals of the prospective capital managers,

whereby capital raising and capital management are realized, in effect, by means of said financial instrument as a whole.

By this technical feature, the present invention produces a prominent advantageous technical effect of significantly improving the probability of executing capital raising by a client terminal of a prospective capital raiser, and capital management by a client terminal of a prospective capital manager; and provides a remarkable technical advantage of drastically increasing the liquidity of a financial instrument subject to capital raising and capital management. Indeed, the technical advantage is described in, for example, original paragraph 0374 as well.

In contrast thereto, Stallaert neither discloses nor suggests the above-mentioned technical feature. Further, as well, Stallaert in view of Bates neither discloses nor suggests the above-mentioned technical feature.

That is, Stallaert in view of Bates neither discloses nor suggests the technical feature that: in a financial instrument that can be unbundled into two constituents,
a server computer fixes, as the sole capital raising numerical value for one of the constituents, a desired capital management numerical value that is the most advantageous to the side that desires to execute capital management by means of the constituent; i.e., a desired capital management numerical value that is the most favorable to a prospective capital manager;
the server computer fixes, as a capital raising numerical value for the other constituent, a desired capital management numerical value that is more favorable to the prospective capital raiser; and
the server computer thereby executes the capital raising and capital management, separately by the constituent and by the other constituent, between the client terminal of the prospective capital raiser and the client terminals of the prospective capital managers,
whereby capital raising and capital management are realized, in effect, by means of said financial instrument as a whole.

Stallaert in view of Bates fails to disclose this technical feature, and thus the apparatus according to Stallaert in view of Bates cannot produce the prominent advantageous technical effect of significantly improving the probability of executing capital raising by a client terminal of a prospective capital raiser, and capital management by a client terminal of a prospective capital manager. Also, the apparatus according to Stallaert in view of Bates

cannot provide the remarkable technical advantage of drastically increasing the liquidity of a financial instrument subject to capital raising and capital management.

Accordingly, the apparatus according to Stallaert in view of Bates cannot teach the invention as recited in claim 8.

Therefore, it is respectfully submitted that the invention as recited in claim 8 meets the requirements for non-obviousness prescribed in 35 USC §103.

(2) The following is to explain the technical feature of the present invention in more detail.

First, in claim 8, limitation (a) and limitation (b) recite, regarding constituent B (which is one of the constituents of financial instrument A),

"(a) compares the capital raising order u, the capital management order v, the capital management order w, and the capital management order x as objects of matching in the database, and

determines, in a case where each of the desired capital management numerical value VB, the desired capital management numerical value WB, and the desired capital management numerical value XB falls within the desired capital raising numerical value range UB, which is most advantageous to the side that desires to execute capital management, i.e., which is the most favorable, to a prospective capital manager, of the desired capital management numerical value VB, the desired capital management numerical value WB, and the desired capital management numerical value XB;

(b) sets the desired capital management numerical value XB as the sole fixed capital raising numerical value XB for the constituent B in a case where it is determined that the desired capital management numerical value XB is the most favorable to a prospective capital manager,

executes the capital raising and capital management between the capital raising order u, the capital management order v, the capital management order w, and the capital management order x, and

updates each of the desired capital raising volume ub, the desired capital management volume vb, the desired capital management volume wb, and the desired capital management volume

xb in the database based upon the contents of the executed capital raising and capital management."

This method (hereinafter referred to as the "first auction method") as shown by limitation (a) and limitation (b) is the first technical feature of the present invention, as mentioned in the previous Amendment.

Next, in claim 8, limitation (c) and limitation (d) recite, regarding constituent C (which is the other constituent of financial instrument A),

"(c) compares the capital raising order u, the capital management order y, and the capital management order z as objects of matching in the database, and

determines, in a case where each of the desired capital management numerical value YC and the desired capital management numerical value ZC falls within the desired capital raising numerical value range UC,

which is more favorable, to the user U, of the desired capital management numerical value YC and the desired capital management numerical value ZC; and

(d) sets the desired capital management numerical value YC as a fixed capital raising numerical value YC for the constituent C in a case where it is determined that the desired capital management numerical value YC is more favorable to the user U than is the desired capital management numerical value ZC,

executes the capital raising and capital management between the capital raising order u and the capital management order y, and

updates each of the desired capital raising volume uc and the desired capital management volume yc in the database based upon the contents of the executed capital raising and capital management."

This method (hereinafter referred to as the "second auction method") as shown by limitation (c) and limitation (d) is the second technical feature of the present invention, also as mentioned in the previous Amendment.

The first auction method sets, as the sole fixed capital raising numerical value XB, the desired capital management numerical value XB that is the most favorable to a prospective capital manager among the three desired capital management numerical values specified and stored, thereby executing the capital raising and capital management. On the other hand, the second auction method sets, as a fixed capital raising numerical value YC, the desired capital

management numerical value YC that is more favorable to the user Y (i.e., the prospective capital raiser) of the two desired capital management numerical values specified and stored, thereby executing the capital raising and capital management.

In summary, the first auction method sets, as the sole fixed capital raising numerical value, the desired capital management numerical value that is the most favorable to a prospective capital manager. On the other hand, the second auction method sets, as a fixed capital raising numerical value, the desired capital management numerical value that is more favorable to the prospective capital raiser.

(3) In theory, a prospective capital raiser could plan for capital raising by means of financial instrument A alone, while prospective capital managers could participate in capital management by means of financial instrument A alone. However, as described in, for example, original paragraph 0266, the liquidity of a financial instrument tends to decrease in, for instance, a case in which the complexity of its structure increases.

Therefore, for example, where the structure of financial instrument A is complex, even if a prospective capital raiser plans to execute capital raising by means of financial instrument A alone, the participation of prospective capital managers who desire to execute capital management by means of financial instrument A alone, is limited. Thus, the optimal capital raising and the optimal capital management respectively for a prospective capital raiser and a prospective capital manager cannot be executed.

Accordingly, the essence of the present invention is to realize capital raising and capital management, in effect, by means of financial instrument A,

by executing capital raising and capital management by means of constituent B (which forms one part of financial instrument A) through the first auction method, and by means of constituent C (which forms the other part of financial instrument A) through the second auction method;

that is, by executing the two separate auction methods,

rather than by executing capital raising and capital management by means of financial instrument A alone.

(4) Now, it is found that page 7 of the present office action does not explain which passage of Stallaert or Bates teaches the above-mentioned first auction method, which is shown by limitation (a) and limitation (b). Hence, it is respectfully submitted that limitation (a) and limitation (b) are not considered by the Examiner.

Also, page 8 of the present office action cites "column 2 lines 65-column 3 line 1" of Stallaert, and yet it is found that the cited passage does not describe the first auction method.

Further, it is found that that the cited passage does not describe that capital raising and capital management are realized, in effect, by means of financial instrument A,
by executing capital raising and capital management by means of constituent B (which forms one part of financial instrument A) through the first auction method, and by means of constituent C (which forms the other part of financial instrument A) through the second auction method;
that is, by executing the two separate auction methods,
rather than by executing capital raising and capital management by means of financial instrument A alone.

Accordingly, it is respectfully submitted that not all the words in claim 8 are considered by the Examiner. The first paragraph of MPEP §2143.03 prescribes, "All words in a claim must be considered in judging the patentability of that claim against the prior art."

Therefore, it is earnestly requested that all the words in claim 8 be considered.

Meanwhile, it is also submitted that the non-obviousness, of the invention as a whole as recited in claim 8, is not considered by the Examiner. MPEP §2141.02 (I) prescribes, "In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious." Further, MPEP §2141.02 (II) prescribes, 'Distilling an invention down to the "gist" or "thrust" of an invention disregards the requirement of analyzing the subject matter "as a whole".'

Therefore, it is earnestly requested that the non-obviousness, of the invention as a whole as recited in claim 8, be considered.

3. Accordingly, regarding claim 8, it is respectfully requested that the rejections under 35 USC §103 be withdrawn.

IV. Dependent Claims and Official Notice

1. Each of claims 10 through 15, 18 and 36 is a dependent claim of claim 8, and thus each of the respective inventions as recited in these dependent claims has at least the above-mentioned technical features possessed by the invention recited in claim 8. Hence, each of the respective inventions as recited in the dependent claims produces the above-mentioned prominent advantageous technical effect and produces the above-mentioned remarkable technical advantage as does the invention recited in claim 8.

Therefore, as well, each of the respective inventions as recited in claims 10 through 15, 18 and 36 meets the requirements for non-obviousness prescribed in 35 USC §103.

Incidentally, regarding these dependent claims, the Applicant addressed similar assertions in the Amendment dated November 20, 2009 and the Amendment dated April 23, 2009.

The second sentence of the first paragraph in MPEP §2143.03 prescribes, "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious."

Hence, it is respectfully submitted: the assertion of the non-obviousness regarding claim 8 (which is an independent claim) means that, in effect, the non-obviousness has been asserted regarding all the dependent claims (which depend from the independent claim), and thus the Official Notice statements of the Examiner have been seasonably traversed.

That is, it is earnestly submitted that the Applicant has never admitted that the Official Notice statements are prior art.

2. The Examiner argues, on page 10 of the present office action, "Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stallaert in view of Bates and Official Notice."

(1) Regarding the argument, the Applicant recognizes that "Stallaert in view of Bates" corresponds to the alleged prior art on claim 8 for the Examiner, and that the "Official Notice" corresponds to the alleged prior art on claims 11 through 14 for the Examiner.

In "III. Claim Rejections under 35 U.S.C. § 103" of the present Response, the Applicant has already asserted, "The apparatus according to Stallaert in view of Bates cannot teach the invention as recited in claim 8. Therefore, the invention as recited in claim 8 meets the requirements for non-obviousness prescribed in 35 USC §103."

That is, regarding claim 8, it has already been negatived that Stallaert in view of Bates is prior art and thus, it is respectfully submitted that, at that stage, the non-obviousness of each of the respective inventions as recited in claims 11 through 14 is rejected in effect solely by the Official Notice.

As previously mentioned, MPEP §2141.02 (I) prescribes, "In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious."

Hence, it is earnestly submitted that the non-obviousness of each of the respective inventions as recited in claims 11 through 14 should be considered not only in the light of the text alone of each of the dependent claims, but also in the light of the text "as a whole" including the text of claim 8.

Therefore, it is respectfully requested that the non-obviousness of each of the respective inventions, as a whole, recited in claims 11 through 14 not be rejected in effect solely by the Official Notice.

(2) The Examiner argues, on page 10 of the present office action, "it is old and well known in the art of electronic trading to store settlement information in a database that includes funds account numbers, funds account balances, and margin requirements." That is, seemingly, the Examiner distills each of the respective inventions recited in claims 11 through 14 as "to store settlement information in a database that includes funds account numbers, funds account balances, and margin requirements."

As previously mentioned, MPEP §2141.02 (II) prescribes, 'Distilling an invention down to the "gist" or "thrust" of an invention disregards the requirement of analyzing the subject matter "as a whole".'

Therefore, in this respect as well, it is earnestly requested that the non-obviousness of each of the respective inventions, as a whole, recited in claims 11 through 14 not be rejected in effect solely by the Official Notice.

(3) Likewise, it is respectfully requested to consider the non-obviousness of each of the respective inventions, as a whole, recited in the other dependent claims (i.e., claims 10, 15, 18 and 36) as well.

3. Accordingly, regarding the dependent claims as well, it is respectfully requested that the rejections under 35 USC §103 be withdrawn.

IV. Request for Reconsideration

The Applicant respectfully submits that the claims of the present application are in condition for allowance. Accordingly, reconsideration of the rejection and allowance is requested.

As a postscript and for the Examiner's information, it is respectfully submitted that JP application 2003-391857, which is equivalent to a sister application of the present US patent application, has been duly granted by the Japan Patent Office on May 19, 2010.

The undersigned respectfully submits that the arguments presented above are based upon those made by the Applicant and submitted to the undersigned for inclusion in this Response.

In view of the above, therefore, it is respectfully requested that the Response be favorably considered, and that the case be passed to issue.

Please charge any additional costs incurred by or in order to implement the Response to QUINN EMANUEL DEPOSIT ACCOUNT NO. 50-4367.

Respectfully submitted,

By: _____
William L. Androlia
Reg. No. 27,177

Quinn Emanuel Urquhart & Sullivan, LLP
Koda/Androlia
865 S. Figueroa Street, 10th Floor
Los Angeles, California 90017
Telephone: 213-443-3000
Facsimile: 213-443-3100
E-mail: thomasedison@quinnemanuel.com

Certificate of Mailing
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450, on
May 28, 2010
Date of Deposit
William L. Androlia
Printed Name of person signing this certificate
5/28/2010
Signature Date